

Glass, Susan

From: Glass, Susan
Sent: Wednesday, July 11, 2012 5:18 PM
To: 'jlocker@nvrpa.org'
Cc: Kelly, Larr; Ferrall, Diane; schneider, marchant
Subject: White's Ford Park - Special exception validity
Attachments: legp504 (2).pdf

June,

As a follow up to our conversation this morning about the White's Ford Park special exception applications (SPEX 2008-0061 & SPEX 2008-0062), I am sending you a copy of the *Code of Virginia* section that extends valid special exception applications to July 1, 2017.

Section 1-103(O) of the Revised 1993 Loudoun County Zoning Ordinance and section 15.2.-2308 of the *Code of Virginia* provide that a landowner's rights shall be vested in a land use when the land owner (i) obtains or is the beneficiary of a significant affirmative governmental act which remains in effect allowing development of a specific project, (ii) relies in good faith on the significant affirmative governmental act, and (iii) incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance of the significant affirmative governmental act.

This email does not provide an official vesting determination; if NVRPA wishes to receive one, a request should be submitted to Nicole Dozier, Zoning Administrator, along with the processing fee of \$1,035. However, I note that the approval of the White's Ford Park special exception applications would be deemed to be a significant affirmative governmental act. I also believe that NVRPA has incurred substantial expenses in the preparation of the traffic study and the \$140,000 contribution that the County received for the right turn lane on Route 15 at Spinks Ferry Road. Further, NVRPA is relying in good faith of the SPEX applications through its submission of the site plan, STPL 2011-0031.

I reviewed the conditions of approval for both of the White's Ford Park special exception applications and could not find any provision that requires the commencement of Phase II improvements within a certain time. Therefore, if NVRPA commences the Phase I uses before July 1, 2017, it will preserve its ability to implement the Phase II uses at a later date.

Susan Glass
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Zoning Administration
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This e-mail is not intended to be and shall not be deemed to be an official order, requirement, decision or determination made by or on behalf of the Zoning Administrator.